IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 426 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the Judgment ?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the Judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA
VERSUS
STATE OF GUJARAT

Appearance:
MR RM CHHAYA with MR MR BHATT for Petitioner
MR MA PATEL for Respondents

CORAM : MR JUSTICE S.K. KESHOTE
Date of Decision : 12/06/2000

C.A.V. JUDGMENT

1. Here the petitioner is the Union of India through the Commissioner of Income Tax, Surat. It has

come up before this court challenging in this petition, the action of the respondent State of Gujarat and its officer, Regional Transport Officer, Surat demanding the vehicle and road tax for registration of the vehicles owned by the petitioner.

2. By resolution dated 30th June, 1992 of the State of Gujarat its two earlier resolutions dated 4th may, 1951 and 7th April, 1956 passed by the erstwhile State of Bombay, exempting the vehicles owned by the Government of India from payment of tax under the provisions of the Bombay Motor Vehicles Tax Act, 1935 have been rescinded.

3. The demand of tax made by the respondent State and its officer has been challenged on manifold grounds. The aforesaid resolution has also been challenged. It is unfortunate that a litigation in between the State of Gujarat on one hand and the Union of India on the other has directly come up before this court. The Apex Court in the case of O.N.G.C. v.s Collector, Central Excise reported in JT 1991 (4) SC 158 held that the dispute between Union of India and State Government etc. should not come directly before the courts. For these disputes there should have been a high powered Committee to examine the matter and only on clearance of the Committee, the dispute may be brought by the affected party in the court. Though this decision has been given in respect of the Central Govt. department but it is equally applicable to the matters of State also.

4. If the State of Gujarat and Union of India directly come up before this court, it is not a good sign. If the State Govt. on the one hand and the Union of India on the other, cannot resolve their own disputes then how they can resolve the disputes which the citizens have against them. There may be some difficulties or disputes in the matters in between the Union of India and the State but filing of this petition, directly by the Union of India to this court otherwise also deserves to be deprecated more so in view of the decision of the Apex Court in the case of O.N.G.C. vs. Collector, Central Excise (supra). The Union of India should have taken care to take up this matter before the State Govt. but it has not been done. On the part of the State Govt. I fail to see any justification in the approach of its officers to come up as an ordinary litigant by filing reply. These disputes are to be settled by a Committee and not by the court unless the Committee gives clearance to either of the party to approach to the court. Earlier also, in many

of the cases, this court has given direction for constitution of a high powered Committee for resolving the disputes in between one department against other department or public sector undertaking or local bodies etc. but what ultimately the State Govt. did is not made known to the court. Looking to the large number of such disputes in the State, I am of the opinion that there should be a permanent Committee of this nature as what directed by the Hon'ble Supreme Court in the case of O.N.G.C. vs. Collector, Central Excise (supra). Be that as it may. If the State of Gujarat or the Union of India are not following the ratio as laid down by the Hon'ble Supreme Court that does not mean that this court will entertain this petition. They have to abide by the decision of the Apex Court and get their grievances, disputes etc. resolved accordingly as what it is expected by the Apex Court.

5. In the result, this special civil application is disposed of in terms that the Chief Secretary of the State of Gujarat is directed to constitute a High-Powered Committee under his Chairmanship with the other members, namely, the Finance Secretary to the State, Secretary to the Government Home Department, Director of Transport for resolving the dispute which has been raised by the Union of India in this petition. The Union of India may sent its representative before the Committee to place its case. In case the Committee fails to resolve the disputes in between the Union of India and State Govt. then only on its certification, the petitioner is free to approach this court by filing a simple note for revival of this special civil application. This Committee has to be constituted within a period of one month from the date of receipt of writ of this order and the decision to be taken in this matter within three months thereafter. Rule and special civil application stand disposed of accordingly with no order as to costs.

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